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## FACSIMILE COVER SHEET

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DATE: December 1, 2005

TO: Examiner Mark Rutkosky  
Group Art Unit 1745

FAX #: 571-273-8300

PHONE #:

Application No.: 09/435,748

OUR REF.: 2950.27US01

Applicant: Buckley

Due Date: December 26, 2005

Appeal No. 2005-1249

FROM: Peter S. Dardi  
PHONE #: (404) 949-5730

Attached please find the following document(s) for filing in the above-identified patent application:

1. Request to Reinstate Appeal (2 pgs)
2. Supplemental Appeal Brief (4 pgs)

Respectfully submitted,



Peter S. Dardi, Ph.D.  
Reg. 39,650

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to Examiner Mark Rutkosky at the U.S. Patent and Trademark Office, Fax No. 571-273-8300 on the date shown below thereby constituting filing of same.

December 1, 2005  
Date

Peter S. Dardi  
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**RECEIVED  
CENTRAL FAX CENTER****DEC 01 2005**Application No. 09/435,748  
Appeal No. 2005-1249**PATENT APPLICATION****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of:

Attorney Docket No.: 2950.27US01

Buckley et al.

Confirmation No.: 5623

Application No.: 09/435,748

Examiner: Mark Ruthkosky

Filed: November 8, 1999

Group Art Unit: 1745

For: BATTERIES WITH THIN ELECTRODES

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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES****APPEAL NUMBER 2005-1249****REQUEST TO REINSTATE APPEAL**Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of September 23, 2005 and the Remand from the Board dated August 26, 2005, Appellants respectfully request reinstatement of the Appeal. A Supplemental Reply Brief is attached. In reviewing the new rules 37 C.F.R. 41.30 to 41.54, it is not clear that the Examiner's submission of an Office Action was an appropriate response at this stage of the prosecution. It would seem that the Examiner should have sent a Supplemental Examiner's Answer. The filing of an Office Action was an appropriate response under the old rules 37 C.F.R. 12.81, which have been withdrawn in view of the new rules. On page 3 of the Board's Remand, the Board indicated that if the Examiner's Answer contained a new Ground of Rejection, a corrected Examiner's Answer should have been filed and not a new Office Action.

Application No. 09/435,748  
Appeal No. 2005-1249

However, in any case, Appellants' filing of this document and their Supplemental Reply Brief should appropriately resume the Appeals process. Since the Office Action set a three month response period for reply, Appellants' response is timely filed.

Respectfully submitted,



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